WT 08-124

Before the
Federal Communications Commission
Washington, D.C. 20554

In re the Matter of	)	
	)	
EDELWEISS, LLC	)	File No. _____
	)	
Request for Waiver	)	

REQUEST FOR WAIVER

Edelweiss, LLC ("Edelweiss" or the "Company"), by its counsel, hereby submits a request for waiver of certain Part 80 Rules so as to facilitate the development of a new type of search-and-rescue transponder ("SART"). As explained below, the public interest will clearly be served by a grant of this Request.

Introduction

Edelweiss LLC is a small, limited liability company. Its predecessor partnership was formed in 2000 in order to bring the benefits of SART technology to recreational boaters, fishermen and others. The technology, referred to by Edelweiss as its "Personal Radar Beacon" (or "PRB"), and Vessel Radar Beacon (or "VRB"), respectively, are miniature radar transponders. Unlike Global Maritime Distress and Safety System ("GMDSS") SARTSs, which are designed for locating life rafts on the high seas, the PRB is designed to be clipped to a life jacket and used most often in coastal and offshore waters to locate persons in the water. The VRB is designed to be used on small boats and pleasure craft, and facilitate their being located.

A GMDSS SART weighs on the order of 1.5 pounds, has a battery life of up to 96 hours, a power output of 400 milliwatts, and a range of five nautical miles at sea surface, and much farther in the case of aircraft searches.

By contrast, the PRB weighs only eight ounces due primarily to its much smaller battery size. The PRB's battery life is eight hours, its power output is 160 millwatts, its antenna beamwidth is within ± 3dB versus ± 2dB for the large SART, and its range one-two miles. The VRB's characteristics are similar. Like the GMDSS SART, the PRB/VRB operate in the X-band, i.e. the 9.2-9.5 GHz range. The signal is readable on any standard radar and produces a dotted, spoked line signal on the radar scope.

SART specifications are set forth in International Maritime Organization ("IMO") Resolution A.802(19) and are further specified in International Telecommunications Union Recommendation M.628-4. See, in particular, IMO Resolution A.802(19) Annex at sections 2.2 and 2.6 (battery life and range) and ITU-R Rec. M. 628-4, Annex 1 at item 15 (antenna beamwidth).[1] These standards have been incorporated in the Commission's Rules per Section 80.1101(c)(6).

Accordingly, a waiver of Rule 80.1101 is required in order to allow the authorization and marketing of the PRB device.[2]

Discussion

Commission Rule 1.925 stipulates that waivers may be granted if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case; or (b) in light of unique or unusual circumstances, application of the rule would

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[1] Rule 80.1101(c)(6) actually references ITU-R Rec. M. 628-3. The Recommendation was updated in 2006 and designated M.628-4, but the Commission's Rules appear to not yet reflect the modification.

[2] Rule 80.1129(d) also speaks to devices used for locating and homing. The Company's technology is clearly a device of this type. While this Rule incorporates by reference only the ITU-R Recommendation, the Recommendation itself cross-references the IMO Resolution. Hence, Rule 80.1129 seems to lead to the same conclusion as Rule 80.1101 in terms of the provisions needing waiver.

be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative. The instant Request clearly meets this standard.

A grant of this Request would in no way frustrate the purposes of Rule 80.1101's adoption of GMDSS SART specifications inasmuch as such devices are not used by, nor are suitable for, recreational boaters. GMDSS SARTs serve a different purpose, namely the protection of passengers and crewmembers in life rafts and lifeboats at sea. They are too large and too heavy for recreational use, and are not suited for locating individuals or small boats. Moreover, they are too expensive for most recreational users. In other words, if the underlying purpose of the Rule is to enhance the safety of life at sea -- as it clearly is -- a grant of this request would contribute to increased safety options for the boating public.[3]

Favorable action on this Request will further the Congressional mandate in Section 7 of the Communications Act that "it shall be the policy of the United States to encourage the provision of new technologies and services to the public." 47 U.S.C. Section 157. The PRB/VRB will clearly provide the public with an additional technology and option to serve their needs.

In analogous circumstances the Commission has seen fit to waive its Rules. For example, on three separate occasions it has granted waivers of rules specifying the frequency, power, and/or battery requirements for Emergency Position Indicating Radio Beacons ("EPIRBs") designed for personal use. See, e.g. McMurdo Limited, DA 02-985, 17 FCC Rcd 7999 (2002); Briar Tek Incorporated, DA 02-287, 17 FCC Rcd 2204 (2002); Letter to David Marshall, 13 FCC

[3] GMDSS SARTs are not marketed for general consumer use. Nonetheless, in order to address any remote possibility of customer confusion regarding the difference between the PRB/VRB and GMDSS SARTs, the packaging for the Company's products will clearly delineate the limited purpose of its products.

Rcd 23688 (WTB 1998).[4] In each instance, the device in question was designed to locate persons in the water where the individual was located in relative proximity to his or her vessel. In these cases, the Commission determined that it was not necessary for the device to have the power required by the Rules since the signal was not designed to alert satellites or searching aircraft to the location of a ship in distress; and that, since assistance was intended to be provided within minutes rather than days or hours, a shorter battery life was also not an issue. This same reasoning applies in the case of the PRB and VRB.

Conclusion

For the foregoing reasons, the Company urges a prompt grant of this Request so as to allow equipment authorization and marketing of the PRB and VRB

Respectfully submitted,

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[4] Unlike personal EPIRBS, which are transmitters, PRBs are transponders designed to answer interrogating radar signals. PRBs thus represent another technological option to personal EPIRBS.